IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7716 of 2007()

(CRIME NO.363/07 OF CHALISSERY POLICE STATION)

PETITIONER/ACCUSED

GIREESH, 23 YEARS,S/O. KUTTAPPA,
NAMBEESNPADI, KUNATHERI, POST CHALISSERY,
PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM,REPRESENTING SUB INSPECTOR OF POLICE
CHALISSERY POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7716 of 2007

Dated this the 17th day of December 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 326 I.P.C. The alleged incident took place on 22/11/2007. Victim was taken to the hospital straight away. F.I.S was lodged and the F.I.R was recorded only on 24/11/2007. The petitioner is named in the F.I.R. Nasal fracture has resulted on account of the victim being hit with the granite stone. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner was not the aggressor; but only the victim of aggression. There is significantly nothing to show that the petitioner had suffered any injury or that the de facto complainant had ever attempted to attack him. Records clearly show that grievous hurt has resulted to the victim.

3. The learned Public Prosecutor opposes the application. In the facts and circumstances of this case, I find merit in the opposition. No circumstances whatsoever are

shown to exist which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007